

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE DUPAGE COUNTY BOARD OF ELECTION)
COMMISSIONERS, a body politic; KAMI)
HIERONYMUS, not individually, but as County Clerk)
of Bureau County; SHARON HOLMES, not)
individually, but as County Clerk of DeKalb County;)
RENNETA MICKELSON, not individually, but as)
County Clerk of Kendall County; NANCY NELSON,)
not individually, but as County Clerk of Lee County;)
BARBARA M. LINK, not individually, but as County)
Clerk of Henry County; JOHN A. CUNNINGHAM,)
not individually, but as County Clerk of Kane County;)
and the CITY OF AURORA BOARD OF ELECTION)
COMMISSIONERS, a body politic,)
Plaintiffs,)

No. 08 C 232

Judge Castillo
Magistrate Judge Cox

v.)

ILLINOIS STATE BOARD OF ELECTIONS, a body)
politic; and JOHN LAESCH, JOTHAM STEIN, BILL)
FOSTER, each individually, as certified Democratic)
candidates for the February 5, 2008, Special Primary)
Election for the 14th Congressional District; CHRIS)
LAUZEN and JIM OBERWEIS, each individually, as)
certified Republican candidates for the February 5,)
2008, Special Primary Election for the 14th)
Congressional District,)
Defendants.)

MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF THE UNITED
STATES' MOTION TO
PARTICIPATE AS
AMICUS CURIAE

The United States respectfully submits this Memorandum of Points and Authorities in Support of its Motion for Leave to Participate as Amicus Curiae in this action. This matter concerns the special primary and general elections to fill the vacancy in the office of United States Representative for the Fourteenth Congressional District, scheduled for February 5 and March 8, 2008, respectively.

The declaratory relief sought by the Complaint involves Illinois' compliance with the Uniformed and Overseas Citizens Absentee Voting Act of 1986, 42 U.S.C. §§ 1973ff to 1973ff-6 ("UOCAVA"), a federal statute that the Attorney General is charged with enforcing. 42 U.S.C. § 1973ff -4. UOCAVA guarantees Illinois' military and overseas citizens the right to vote by absentee ballot in all general, special, primary, and runoff elections for federal office. 42 U.S.C. § 1973ff -1. The instant action, and the emergency relief sought, raise important issues concerning the State's compliance with UOCAVA in the context of the compressed schedule the Plaintiffs propose for the conduct of the elections. The United States has a strong interest in ensuring that the voting rights of military and overseas citizens are protected in these elections, and that any relief ordered by this Court is sufficient to meet the requirements of UOCAVA.

The United States seeks to participate as amicus curiae for the limited purpose of addressing issues affecting UOCAVA compliance, and is in a unique position to be of assistance to the Court in the resolution of these questions. Since UOCAVA took effect in 1988, the United States has brought thirty lawsuits to protect the rights of UOCAVA voters in general, primary, and runoff federal elections, including special elections to fill vacancies in federal offices. The United States is uniquely familiar with the types of equitable relief ordered in emergency circumstances such as those presented here. To further its enforcement responsibilities, the Department of Justice also coordinates closely with the Department of Defense's Federal Voting Assistance Program ("FVAP"), the entity designated to administer the Act. The FVAP officials have extensive expertise in assisting military and overseas citizens in the voting process, and the Department of Justice regularly confers with FVAP in formulating proposed relief for UOCAVA violations, and in working with state election officials to devise emergency UOCAVA solutions

where possible without need for litigation. We believe the United States' experience in enforcing this Act would be of assistance to the Court in this case.

For the foregoing reasons, the United States respectfully requests that the motion be granted and that the United States be authorized to participate as amicus curiae in the above-captioned case. We seek permission to file the brief, attached to the instant Motion, and to participate in any hearing addressing the proposed declaratory relief. A proposed order is attached.

Respectfully submitted,

Date: 14th day of January, 2008

PATRICK J. FITZGERALD
United States Attorney

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s/Joan Laser

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